

THE HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.26914 of 1997

DATED: 24.04.2007

Between:

The Depot Manager, A.P.S.R.T.C.,
Hanamkonda Depot. .. Petitioner

And

P. Bhadraiah and another. .. Respondents.

THE HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.26914 of 1997

ORDER:

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This Writ Petition is filed by the petitioner seeking a Certiorari calling for the records pertaining to the order in E.P.No.26 of 1995 in I.D.No.122 of 1989 passed by the Labour Court, Warangal, dated 16.09.1997 and quash the same as illegal and arbitrary.

(2) It appears the 1st respondent-workman filed E.P.No.26 of 1995 before the Industrial Tribunal-cum-Labour Court at Warangal for realization of notional increments and arrears thereof in pursuance to the award made in I.D.No.122 of 1989 dated 13.12.1989 by way of attachment. The award passed by the Industrial Tribunal-cum-Labour Court in I.D.No.122 of 1989 reads as hereunder:-

“In the result, an award is made directing the respondent to re-instate the petitioner as Conductor with continuity of service, but without backwages in the service of the respondent/Corporation.”

(3) It was the case of the 1st respondent-workman that in view of the above award, he is also entitled for all attendant benefits. Since there was no positive denial of the same, the Labour Court ordered the E.P as prayed for. Aggrieved by the same, the present Writ Petition is filed by the Management of APSRTC.

(4) Now, the only question that falls for consideration is whether in the absence of any positive direction in the award passed by the Labour Court in I.D.No.122 of 1989, the 1st respondent-workman is automatically entitled for notional increments in the light of the award noticed above.

(5) This question is no more *res integra*. This is now covered by a judgment reported in **ANDHRA PRADESH STATE ROAD TRANSPORT CORPORATION v. ABDUL KAREEM**^[1], wherein it was held that the employee having been held guilty of misconduct and removed from service, approached the Labour Court, and when an award is passed by the Labour Court as is passed in this case, the employee is not entitled for notional increments for the period during which he was out of service.

(6) In view of the above, the orders passed in E.P.No.26 of 1995 are liable to be set-aside.

(7) Accordingly, the writ petition is allowed. No order as to costs.

(C.V.RAMULU, J)

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^[1] 2005(6) SCC page 36